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from JAMES F. GOTTMAN

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Applicant : Lars Ericsson

Serial No. : 09/341,101

Filed : August 18, 1999

Title : DEVICE AND METHOD FOR DETERMINING THE POSITION OF A
WORKING PART

Docket No. : SPF 0002 PA/41105.6/ former Attorney Docket SPB 0004 PA

Examiner : Olga Hernandez

Art Unit : 3661

Confirmation : 4745

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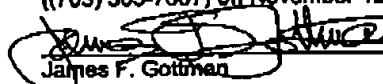
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

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James F. Gottman Reg. No. 27282

Sir:

Director of the United States Patent and
Trademark Office
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

COMMUNICATION

This paper is being filed in response to the Office Action dated October 7, 2003, in the identified application, having a reply due date of January 7, 2004. The Office Action was made FINAL. It is believed that this was premature for the reasons given below, and it is respectfully requested that the finality of the Office Action of October 7, 2003 be withdrawn.

A REQUEST FOR CONTINUED EXAMINATION was filed in the present application on February 17, 2003. Subsequently, on May 8, 2003, a First Office Action, subsequent to the RCE, was mailed to applicant. Applicant's attorney, Mr. Thomas E. Lees, noted that the Office Action of May 8, 2003, although indicating that claim 16 was rejected on the Office Action Summary form (PTO-326), provided no basis for the

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Attorney Docket No. SPF 0002 PA / former SPB 0004 PA
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rejection. Mr. Lees then contacted the Examiner by telephone on July 10, 2003, and pointed out to the Examiner the failure of the First Office Action to treat the patentability of claim 16 (as well as claims 13 and 17). Mr. Lees sought clarification from the Examiner as to the status of these three claims. The Examiner indicated to Mr. Lees that the applicant should respond to the Office Action as if the above claims were objected to, and if the arguments presented by the applicant were not found persuasive, then the Examiner would issue a second, non-final action. Mr. Lees included a summary of this interview in applicant's response to the First Office Action.

In the Office Action of October 7, 2003, the Examiner has now rejected claim 16 as anticipated by Gudat et al (WO 95/28524). In view of the fact that this is first time that a reason has been given for the rejection of claim 16, and further in view of the agreement reached with the Examiner that the applicant should respond to the Office Action as if claim 16 were objected to and if the arguments presented by the applicant were not found persuasive, then the Examiner would issue a second, non-final action, it is submitted that the Office Action of October 7, 2003 not properly made final. It is requested that the finality of the Office Action of October 7, 2003 be withdrawn.

Respectfully submitted,
Dinsmore & Shohl LLP

By 
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